

# SUMMARY

## OF THE OHS ACT 2000



## A summary of the main provisions



The New South Wales Occupational Health and Safety Act 2000 (OHS Act) aims to protect the health, safety and welfare of people at work. This replaces the 1983 Act and contains new provisions that require employers to consult with employees on health, safety and welfare matters. The Act has been written in plain-English.

It lays down general requirements for health, safety and welfare, which must be met at all places of work in New South Wales.

The Act covers self-employed people as well as employees and employers.

### General duties (Part 2, Division 1 of the Act)

Employers must ensure the health, safety and welfare of their employees when at work by:

- (a) maintaining places of work under their control in a safe condition, and ensuring safe entrances and exits;
- (b) making arrangements for ensuring the safe use, handling, storage and transport of plant and substances;
- (c) providing and maintaining systems of work, and working environments, that are safe and without risks to health;
- (d) providing the information, instruction, training and supervision necessary to ensure the health and safety of employees;
- (e) providing adequate facilities for the welfare of employees.

**Employers and self-employed people** must ensure the health and safety of people visiting or working at their places of work, who are not their employees, by not exposing them to risk.

**Manufacturers, designers and suppliers of plant and substances** for use by people at work must make sure that they are safe and without risks to health when properly used. They must also provide adequate information to those who are supplied with the plant or substance to ensure its safe use.

**Persons who erect or install equipment at a workplace** also have the manufacturer's obligation to make sure that the equipment is safe to use when properly used.

**Persons in control of non-domestic premises** used as a place of work, by persons other than their employees, must ensure that the premises and exits and entrances are in a safe condition.

**Persons who control plant or substances** must ensure the plant or substance is safe and without risk to health when used at work by persons other than their employees.

### Related duties (Part 2, Division 3 of the Act)



Employees must take reasonable care of the health and safety of themselves and others. Employees must co-operate with employers in their efforts to comply with occupational health and safety requirements.

**All persons** must not:

- interfere with or misuse things provided for the health, safety or welfare of persons at work;
- obstruct attempts to give aid or attempts to prevent a serious risk to the health and safety of a person at work;

- refuse a reasonable request to assist in giving aid or preventing a risk to health and safety;
- disrupt a workplace by creating health or safety fears.

**Employers** must not require employees to pay for anything done or provided to meet specific requirements made under the Act or Regulation.

## Employer's duty to consult employees (Part 2, Division 2 of the Act)

Employers must consult with employees about OHS matters, so that employees can contribute to decisions affecting their health, safety and welfare.

The Act provides for occupational health and safety representatives to be elected when requested by an employee. OHS Committees can be established in workplaces of 20 or more where the majority of employees request it. Other consultation arrangements can be agreed to between the employer and employees.

The OHS Regulation details obligations established in the Act in relation to consultation. Further guidance is provided by a WorkCover Code of Practice which outlines steps that can be taken to set up consultation arrangements in accordance with the Act, and the application of the powers and functions of representatives and committees.

## Unlawful dismissal (Part 2, Section 23 of the Act)

The OHS Act makes it unlawful to dismiss or victimise an employee for being an occupational health and safety representative, committee member, or for performing his or her duties under the Act. It is also unlawful to dismiss or victimise an employee for making a complaint about a health and safety matter.

## Offences and penalties

There are various offences and penalties associated with the Act and regulations. The maximum penalty for a company found guilty of an offence is 5,000 penalty units. For individuals found guilty of offences, the maximum penalty is 500 penalty units. A "penalty unit" is an amount of money - \$110 at January 2001 - that can be altered from time to time by the Government. This means that the maximum penalties in dollar terms, are presently \$550,000 for corporations, and \$55,000 for persons for a first offence. Additional penalties can be imposed for second or subsequent offences.



There is an additional penalty for previous offenders, who can incur 2,500 penalty units for a corporation, and 250 penalty units or two years' imprisonment, or both, for an individual.

There are also non-monetary penalties. The Court can make orders for offenders to do any of the following:

- take steps to remedy or restore any matter caused by the offence;
- pay WorkCover the costs of the investigation;
- publicise or notify other persons of the offence; or
- undertake a project for the general improvement of health and safety.

It is a defence to charges made under the Act or the regulations that:

- it was not reasonably practicable to comply;
- the incident was due to causes over which the person had no control and it was impracticable to make arrangements to prevent it.

## Regulations made under the Act



A Regulation has been made under the OHS Act. This Regulation contains detailed provisions on aspects of health and safety at work. It consolidates all previous OHS regulations.

## Associated legislation

Some legal requirements regarding health and safety at work are contained in associated legislation defined in the OHS Act. These must also be observed. If there is conflict between the provisions of the associated legislation and the provisions of the OHS Act, then the provisions of the OHS Act must be followed.

A leaflet *How to get health and safety information* (Catalogue No. 101) listing regulations made under the Act and other associated legislation is available from WorkCover NSW.

## Inspection powers (Part 5, Divisions 2 & 3 of the Act)

### *WorkCover Inspectors (Part 5, Division 2 of the Act)*

WorkCover Inspectors are given inspection powers for the purpose of the OHS Act, including the taking of samples, and the carrying out of a range of tests. Inspectors can be accompanied by an employees' representative during an inspection, if requested.

### *Entry and inspection powers of employees' representatives (union officials) (Part 5, Division 3 of the Act)*

Authorised officers of unions can enter, without notice, any premises where members of that union (or persons who are eligible to be members of that union) work, in order to investigate suspected breaches of occupational health and safety legislation.

## Help and information



WorkCover NSW offers a wide range of services to help improve health and safety at work, including workplace inspections, advice on training, and expert scientific and technical assistance. Some information is also available in languages other than English.

For expert advice call the WorkCover Information Centre on 131 050, or find your nearest WorkCover office under WorkCover New South Wales in the White Pages of the phone book.

Nothing in this publication shall be construed to waive or modify any obligations imposed by the Occupational Health and Safety Act 2000 or the associated legislation, or any regulations made under it.

# WorkCover Offices

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